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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Steven Raymond Lustig

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
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EXAMINER

WASHBURN, DOUGLAS N

ART UNIT

PAPER NUMBER

2863

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/653,757	Applicant(s) LUSTIG ET AL.	
	Examiner Douglas N. Washburn	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 77-82 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 77-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1 The indicated allowability of claims 77-82 is withdrawn in view of the newly discovered reference to an analyzer, wherein the cover is slidable with respect to the holder, and the holder is slidable with respect to the analyzer. Rejections based on the newly cited references follow.

Claim Rejections - 35 USC § 103

2 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 77, 79, 80 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jakubowicz et al. (US 7,250,303) (Hereafter referred to as Jakubowicz) in view of Sadler (US 6,679,103) (Hereafter referred to as Sadler).

Jakubowicz teaches:

Regarding claim 77, an apparatus for testing a plurality of samples (the analyzer 10 includes a primary sample handler 14 that retains a plurality of primary sample containers; column 7, lines 13-15; figure 2, element 10);

Regarding claim 77, a holder for the samples (the auxiliary sample handling apparatus 40; column 8, lines 64-65; figure 2, element 40);

Regarding claim 77, a cover for the holder (auxiliary sample handler 40 includes a circular cylindrical housing 80 having a cover 84; column 9, lines 2-4; figure 3, elements 40 and 84);

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Regarding claim 79, the analyzer performs optical analysis (a testing device for correlated analyte detection, such as **reflectometer** or an electrometer; column 7, lines 24-26);

Regarding claim 80, the analyzer performs a method of analysis selected from the group consisting of ultrasonic, electrostatic, magnetic, radio frequency or **x-ray analysis** (a testing device for correlated analyte detection, such as **reflectometer** or an electrometer; column 7, lines 24-26);

And regarding claim 82, a fluid distribution system that is isolated from the analyzer (the auxiliary sample handling apparatus 40 (hereinafter referred to as the auxiliary sample handler) is disposed **in spaced relation** between the first incubator assembly 34 of the dry chemistry system and the second incubator assembly 56 of the wet chemistry system of the above-described analyzer 10; column 8, lines 64 et seq; column 9, lines 1 and 2).

Jakubowicz is silent regarding claim 77, an analyzer, where the cover is slidable with respect to the holder, and the holder is slidable with respect to the analyzer.

Sadler teaches:

Regarding claim 77, an analyzer, where the cover is slidable with respect to the holder, and the holder is slidable with respect to the analyzer (Chassis 22 further includes a cover 28 enclosing a chamber 30 within moisture analyzer 20. A track 32, in fixed relation to moisture analyzer 20, and a tray 34, slidably coupled to track 32, are positioned in chamber 30; column 3, lines 40-43; figure 1, elements 28 (cover), 30 (chamber) and 20 analyzer).

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Regarding claim 77, it would have been obvious to one skilled in the art at the time of the instant invention to modify the teaching of Jakubowicz of an analyzer, a holder for samples and a cover for the holder with the teaching of Sadler of an analyzer, where the cover is slidable with respect to the holder, and the holder is slidable with respect to the analyzer because a cover slidable with respect to a holder, and a holder slidable with respect to an analyzer would have reduced uncontrolled moisture resulting in a more consistent baseline, which consequently leads to increased accuracy in the measurement of the moisture content in the sample material (column 1, lines 62-65).

Claims 78 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jakubowicz in view of Sadler and further in view of Komarniski (US 4,027,979) (Hereafter referred to as Komarniski).

Jakubowicz teaches:

Regarding claim 77, an apparatus for testing a plurality of samples (the analyzer 10 includes a primary sample handler 14 that retains a plurality of primary sample containers; column 7, lines 13-15; figure 2, element 10);

Regarding claim 77, a holder for the samples (the auxiliary sample handling apparatus 40; column 8, lines 64-65; figure 2, element 40);

Regarding claim 77, a cover for the holder (auxiliary sample handler 40 includes a circular cylindrical housing 80 having a cover 84; column 9, lines 2-4; figure 3, elements 40 and 84);

Regarding claim 79, the analyzer performs optical analysis (a testing device for correlated analyte detection, such as reflectometer or an electrometer; column 7, lines 24-26);

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Regarding claim 80, the analyzer performs a method of analysis selected from the group consisting of ultrasonic, electrostatic, magnetic, radio frequency or x-ray analysis (a testing device for correlated analyte detection, such as reflectometer or an electrometer; column 7, lines 24-26);

And regarding claim 82, a fluid distribution system that is isolated from the analyzer (the auxiliary sample handling apparatus 40 (hereinafter referred to as the auxiliary sample handler) is disposed in **spaced relation** between the first incubator assembly 34 of the dry chemistry system and the second incubator assembly 56 of the wet chemistry system of the above-described analyzer 10; column 8, lines 64 et seq; column 9, lines 1 and 2).

Sadler teaches regarding claim 77, an analyzer, where the cover is slidable with respect to the holder, and the holder is slidable with respect to the analyzer (Chassis 22 further includes a cover 28 enclosing a chamber 30 within moisture analyzer 20. A track 32, in fixed relation to moisture analyzer 20, and a tray 34, slidably coupled to track 32, are positioned in chamber 30; column 3, lines 40-43; figure 1, elements 28 (cover), 30 (chamber) and 20 analyzer).

Komarniski teaches

Regarding claim 78, a fluid distribution system to simultaneously expose the samples to a reactive fluid (The multiple colorimeter 13 has as many colorimeter probes 46, 47, and 50 through 54 as reaction tubes in the reaction tube holder 19 for simultaneous testing; column 3, lines 11-14);

And regarding claim 81, a chamber in which the temperature or the pressure is controlled in which each sample is reacted with a fluid (Strict temperature control is possible because of the liquid circulating through the multiple dilutor FIG. 2, inlet and outlet 26, and circulating liquid at the proper temperature through the light tight chamber; column 4, lines 34-38).

Regarding claim 78, it would have been obvious to one skilled in the art at the time of the instant invention to modify the teaching of Jakubowicz a fluid distribution system to simultaneously expose the samples to a reactive fluid with the teaching of Sadler of an analyzer, where the cover is slidable with respect to the holder, and the holder is slidable with respect to the analyzer and with the teaching of Komarniski of a fluid distribution system to simultaneously expose the samples to a reactive fluid because a fluid distribution system to simultaneously expose the samples to a reactive would have allowed an operator to perform a single analysis on many test samples or a number of analysis on one or more test samples simultaneously; abstract).

Regarding claim 81, it would have been obvious to one skilled in the art at the time of the instant invention to modify the teaching of Jakubowicz with the teaching of Sadler of an analyzer, where the cover is slidable with respect to the holder, and the holder is slidable with respect to the analyzer and with the teaching of Komarniski of a chamber in which the temperature or the pressure is controlled in which each sample is reacted with a fluid a chamber in which the temperature or the pressure is controlled in which each sample is reacted with a fluid would have increased the volume and reduce the cost of testing (column1, lines 8 and 9).

Allowable Subject Matter

3 Claims 1-10 are allowed.

The following is an examiner's statement of reasons for allowance:

Claim 1 recites, in part, "e) **a reaction assembly, contained within the reactor housing, and movable in the housing bore in a direction along the axis of the housing** (emphasis added)". This feature **in combination with the remaining claimed structure** avoids the prior art of record.

Claims 2-10 depend from claim 1.

It is these limitations, which are not found, taught or suggested in the prior art of record, and are recited in the claimed combination that makes these claims allowable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas N. Washburn whose telephone number is (571) 272-2284. The examiner can normally be reached on Monday through Thursday 6:30 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DNW


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